

FILED

13 MAR 20 AM 9:01

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

Patrick Steven Cutbirth -1

JUDGMENT IN A CRIMINAL CASE

DEPUTY

(For Revocation of Probation or Supervised Release)

(For Offenses Committed On or After November 1, 1987)

Case Number: 08-cr-02560-JAH-1

Michael Lipman

Defendant's Attorney

REGISTRATION No. 09954298



THE DEFENDANT:

☒ admitted guilt to violation of allegation(s) No. One and two.

☐ was found in violation of allegation(s) No. _____ after denial of guilt.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following allegation(s):

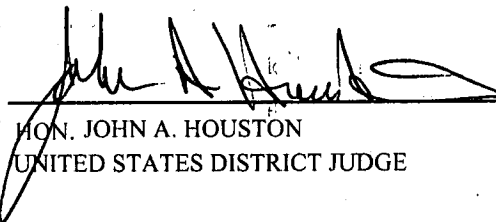
| <u>Allegation Number</u> | <u>Nature of Violation</u> |
|--------------------------|---|
| 1 | Failure to pay restitution and/or fine (nv25) |
| 2 | Failure to provide financial disclosure (nv28) |
| 3 | Comply with all lawful rules of the probation department (nv1a) |

Supervised Release is revoked and the defendant is sentenced as provided in pages 2 through 4 of this judgment.
This sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

March 18, 2013

Date of Imposition of Sentence


HON. JOHN A. HOUSTON
UNITED STATES DISTRICT JUDGE

08-cr-02560-JAH-1

DEFENDANT: Patrick Steven Cutbirth -I

CASE NUMBER: 08-cr-02560-JAH-I

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of Five months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends custody be served at FCI Terminal Island.

☐ The defendant is remanded to the custody of the United States Marshal.

☒ The defendant shall surrender to the United States Marshal for this district:

☒ at 2:00 ☐ a.m. ☒ p.m. on April 5, 2013

as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

08-cr-02560-JAH-I

DEFENDANT: Patrick Steven Cutbirth -1
CASE NUMBER: 08-cr-02560-JAH-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
Twenty-four months.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

For offenses committed on or after September 13, 1994:

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of a DNA sample from the defendant, pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000, pursuant to 18 USC sections 3563(a)(7) and 3583(d).
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant must comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Patrick Steven Cutbirth
CASE NUMBER: 08-cr-02560-JAH-1

SPECIAL CONDITIONS OF SUPERVISION

- ☒ Submit person, residence, office or vehicle to a search, conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
- ☒ Not engage in employment or any profession involving fiduciary responsibilities or the solicitation of funds from investors or financial institutions.
- ☐ Not transport, harbor, or assist undocumented aliens.
- ☐ Not associate with undocumented aliens or alien smugglers.
- ☐ Not reenter the United States illegally.
- ☐ Not enter the Republic of Mexico without written permission of the Court or probation officer.
- ☒ Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
- ☐ Not possess any narcotic drug or controlled substance without a lawful medical prescription.
- ☐ Not associate with known users of, smugglers of, or dealers in narcotics, controlled substances, or dangerous drugs in any form.
- ☒ Provide to US Attorneys Collection Unit a description of any interest in property obtained directly or indirectly, including any interest obtained directly or indirectly, including any interest obtained under any other name, or entity, including a Trust, Partnership or Corporation, that has been transferred by you indirectly or indirectly to any other person or entity, including a family trust, partnership or LLC since January 2008.
- ☐
- ☐ Participate in a mental health treatment program as directed by the probation office.
- ☒ Provide complete disclosure of personal and business financial records to the probation officer as requested.
- ☒ Be prohibited from opening checking accounts or incurring new credit charges or opening additional lines of credit without approval of the probation officer.
- ☐ Seek and maintain full time employment and/or schooling or a combination of both.
- ☐ Resolve all outstanding warrants within _____ days.
- ☐ Complete _____ hours of community service in a program approved by the probation officer within _____
- ☐ Reside in a Residential Reentry Center (RRC) as directed by the probation officer for a period of _____
- ☒ Notify the Collections Unit, US Attorney's Office, before transferring any interest in any property owned directly or indirectly, including any interest held or owned under any other name or entity, including trusts, partnerships or corporations, until restitution is paid in full.
- ☐ Remain in your place of residence for a period of _____, except while working at verifiable employment, attending religious services or undergoing medical treatment.
- ☐ Not engage in any form of telemarketing, as defined in 18 USC 2325, without the written permission of the probation officer.
- ☒ Comply with the conditions of the Home Confinement Program for a period of 4 months and remain at your residence except for activities or employment as approved by the court or probation officer. Wear an electronic monitoring device and follow procedures specified by the probation officer. Pay the total cost of electronic monitoring services, or a portion if deemed appropriate by the probation officer.
- ☒ Notify the Collections Unit, United States Attorney's Office, of any interest in any property obtained, directly or indirectly, including any interest obtained under any other name, entity, including a trust, partnership or corporation, until restitution is paid in full.

DEFENDANT: PATRICK STEVEN CUTBIRTH
CASE NUMBER: 08CR2560-JAH

RESTITUTION

The defendant shall pay restitution in the amount of \$480,881.28 unto the United States of America.

This sum shall be paid immediately.
 x as follows:

Pay restitution in the amount of \$480,881.28, through the Clerk, U.S. District Court, to Trustee, The Irwin Mark Jacobs and Joan Klein Jacobs Family Trust (c/o Frank Rogozienski, Inc., 1660 Union Street, 3rd Floor, San Diego, CA 92101), payable forthwith or through the Inmate Financial Responsibility Program at the rate of \$25.00 per quarter during the period of incarceration, with the balance to be paid following the defendant's release from prison at the rate of \$500.00 per month.

The Court has determined that the defendant does not have the ability to pay interest. It is ordered that:

 x The interest requirement is waived.

 The interest is modified as follows: